



Federal Communications Commission
Washington, D.C. 20554

Docket
96-198

OCT 14 1998 **RECEIVED**

OCT 15 1998

IN REPLY REFER TO:
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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

EX PARTE OR LATE FILED

The Honorable Russell D. Feingold
United States Senate
716 Hart Senate Office Building
Washington, D.C. 20510-4904

Dear Senator Feingold:

This is in response to your letter on behalf of your constituent, Karen Lindberg, regarding the Commission's implementation of Section 255 of the Communications Act (Section 255), added by the Telecommunications Act of 1996. Section 255 requires that telecommunications equipment manufacturers and service providers must ensure that their equipment and services are accessible to persons with disabilities, to the extent that it is readily achievable to do so. In adopting Section 255, Congress gave the Commission two specific responsibilities, to exercise exclusive jurisdiction with respect to any complaint filed under Section 255, and to coordinate with the Architectural and Transportation Barriers Compliance Board (Access Board) in developing guidelines for the accessibility of telecommunications equipment and customer premises equipment.

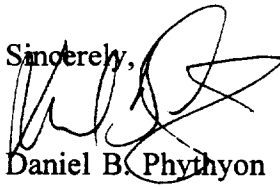
The Commission adopted a Notice of Inquiry in September 1996, initiating WT Docket 96-198 and seeking public comment on a range of general issues central to the Commission's implementation of Section 255. The Commission also adopted a Notice of Proposed Rule Making (NPRM) in April 1998, which sought public comment on a proposed framework for that implementation. The NPRM examined the Commission's legal authority to establish rules implementing Section 255, including the relationship between the Commission's authority under Section 255 and the guidelines established by the Access Board in February 1998. The NPRM further solicited comment on the interpretation of specific statutory terms that are used in Section 255, including certain aspects of the term "readily achievable," and the scope of the term "telecommunications services." In addition, the NPRM sought comment on proposals to implement and enforce the requirement that telecommunications equipment and services be made accessible to the extent readily achievable. The centerpiece of these proposals was a "fast-track" process designed to resolve many accessibility problems informally, providing consumers with quick solutions.

It is important to note that the Commission has not issued a final decision regarding any of the proposals suggested in the NPRM. The record in this proceeding closed on

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August 14, 1998, and the Commission staff is currently reviewing public comments. Since the passage of Section 255, the Commission has worked closely with the Access Board and with various commenters to design an implementation framework that best reflects the intent of Congress in adopting Section 255. The comments of your constituent will be included as an informal comment in the record of WT Docket 96-198, and carefully considered, along with the many other comments, before final action is taken on this critically important matter. I appreciate your constituent's input as a way of establishing as thorough and representative a record as possible on which to base final rules implementing Section 255.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel B. Prythor", written over the printed name.

Daniel B. Prythor
Chief, Wireless Telecommunications Bureau

RUSSELL D. FEINGOLD
WISCONSIN

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COMMITTEE ON THE JUDICIARY
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DEMOCRATIC POLICY COMMITTEE

August 27, 1998

Sheryl Wilkerson
Dir., Legislative and Intergovernmental Affairs
Federal Communications Commission
1919 M St NW, Room 808
Washington, DC 20554

Dear Sheryl:

One of my constituents has contacted me regarding the Notice of Proposed Rulemaking from the Federal Communications Commission on the access provisions of the Telecommunications Act.

I have enclosed a copy of my constituent's letter which outlines these concerns. I would appreciate it if you would forward any information you may have concerning this matter to the attention of Matthew Farrauto in my Washington office so that I may forward that information to my constituent.

Thank you for your assistance.

Sincerely,



Russell D. Feingold
United States Senator

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Dear Sirs:

I am writing to you regarding the Notice of Proposed Rulemaking from the Federal Communications Commission on the access provisions of the Telecommunications Act of 1996. I have a severe hearing loss and am seriously concerned that the FCC proposal is inconsistent with Congressional intent to make telecommunications services accessible to people with disabilities. In fact, I and many of my friends who are hard of hearing also feel that if certain elements of the proposed rule are allowed to stand, this could set back much of the progress that has been made in recent years with the ADA and other disability initiatives. Please do not allow this to happen. My particular concerns are listed below.

Issue #1 It is imperative that the FCC adopt the Access Board guidelines for both manufacturers and service providers. It is presently unclear whether or not the FCC intends to adopt the guidelines and whether they should be applied to service providers as well as to manufacturers. If manufacturers of cell phones, for example, do not have to design in accessibility features such as good telecoils for people who wear hearing aids, many of us will not be able to use them, which is the case now. Additionally, it is conceivable that this technology will replace standard telephone service altogether in which case a large portion of the population, those of us who need boosted amplification, will not be able to use the telephone at all.

Issue #2 The FCC deviates dramatically from the readily achievable standard that has been used in disability law by introducing the concept of "cost recovery". Excessive cost impacts are already guarded taken into consideration under the readily achievable standard. Allowing a company to determine if an accessibility feature will "pay for itself" is a major deviation from the way we have addressed accessibility in the past.

Issue #3 The five day "fast track" complaint process has both an upside and downside. Five days is insufficient time for companies to gather documentation. I recommend that it be extended to 10 days and that companies which indicate that they need more time could have an extension to a maximum of 30 days.

No filing fees for complaints directed at manufacturers or service providers as proposed is a good idea. I urge that the FCC waive such fees for formal complaints against common carriers as well.

Issue #4 The proposed rules omit "enchanced services" from coverage under Section 255. These are the very services I and others with hearing difficulty have the most problems with--voice mail and automated voice response systems. Surely Congress could not have intended to eliminate such important and widely used services from the scope of Section 255, as doing so would undermine the whole purpose of the law--leaving out such service severely limits educational and employment opportunities and interferes with full participation in today's society.

Thank you very much for your consideration of these important issues. I would appreciate hearing your views and actions on the above. My mailing address is:

Karen Lindberg, N9640 Winnebago Park, Fond du Lac, WI 54935.

Sincerely,

Karen Lindberg